(57)

HIGH COURT OF CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI JAGDISH BHALLA, Ag.CJ

Writ Petition No. 1865 of 2002

PETITIONER Sanjy Kumar Mishra S/o Rambadan Mishra, Aged about 35 years, R/o Bouripara, P.S. & Tahsil : Ambikapur, Dist. Surguja, Chhattisgarh

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through : its Principal Secretary, Department of Forests, DKS Bhawan, Raipur, C.G.
2. Conservator of Forests (Appellate Authority), Surguja Circle, District : Surguja, Chhattisgarh
3. Sub Divisional Officer (Forests), The Prescribed Authority, Surguja Sub Division, District Surguja, Chhattisgarh
4. Forest Range Officer, Forest Range : Udaypur, District : Surguja, Chhattisgarh
5. 1st Additional District Judge, Ambikapur, District Surguja, Chhattisgarh

Writ Petition under Article 227 of the Constitution of India

Present: Shri M.K. Baeg, counsel for the petitioner.
Shri Sanjay S. Agrawal, Govt. Advocate for the State.

ORAL ORDER
(Passed on 20th July, 2007)

This writ petition is directed against the order passed by learned First Additional Sessions Judge, Ambikapur dated 17-07-2002. According to the petitioner, his jeep was taken by one Neelu Soni and has pleaded innocence and ignorance about the happening in the reserve forest area where some wood was found near the jeep. The law requires that burden of proof lies on the petitioner in light of Section 52(5) of the Indian Forest Act, 1927 which is as under :-

> "(5) No order of confiscation under sub-section (3) of any tools, vehicles, boats, ropes, chains or any other article (other than timber or forest-produce seized) shall be made if any person referred to in clause (b) of sub-section (4) proves to the satisfaction of authorized officer that any such tools, vehicles, boats, ropes, chains or other articles were used without his knowledge or connivance or, as the case may be, without the

knowledge or connivance or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against use of objects aforesaid for commission of forest-offence."

Learned counsel for the petitioner fails to establish, substantiate and could not prove before any authority as to how and why the jeep went to the reserve forest area and whom the wood belongs to. Accordingly, I do not find any error in the order passed by Court below. The writ petition is dismissed.

Sd/-
Acting Chief Justice